

1 Introduced by the Committee on Health Care

2 Date:

3 Subject: Criminal procedures; firearms

4 Statement of purpose of bill as introduced: This bill proposes to: (1) require
5 safe storage of firearms that are kept in a premises under a person's ownership
6 or control if the person knows or reasonably should know that a child or person
7 prohibited from possessing firearms is likely to gain access to the firearm; (2)
8 require information about safe firearms storage requirements to be distributed
9 to students, parents, and customers at firearms dealers; (3) permit a family or
10 household member to file a petition for an Emergency Risk Protection Order;
11 and (4) require a 72-hour waiting period for most firearms sales.

12 An act relating to firearms procedures

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 13 V.S.A. § 4024 is added to read:

15 § 4024. SECURE FIREARMS STORAGE

16 (a)(1) Prohibition. A person shall not store or keep a firearm within any
17 premises that are under the person's custody or control if the person knows or
18 reasonably should know that a child or prohibited person is likely to gain
19 access to the firearm unless the person stores or keeps the firearm:

20 (A) separate from ammunition; and

1 (B) in a locked container or equipped with a tamper-resistant
2 mechanical lock or other safety device, properly engaged so as to render the
3 firearm inoperable by any person other than the owner or authorized user.

4 (2) Exceptions. This subsection shall not apply if:

5 (A) the firearm is carried by or under the control of the owner or
6 another lawfully authorized user;

7 (B) a child or prohibited person accesses the firearm as a result of an
8 illegal entry; or

9 (C) a child or prohibited person accesses and uses the firearm during
10 the course of a lawful act of self-defense or defense of another person; or

11 (b) Penalties. A person who violates subsection (a) of this section shall be:

12 (1) fined not more than \$100.00;

13 (2) imprisoned not more than one year or fined not more than \$1,000.00,
14 or both, if a child or prohibited person gains access to the firearm and uses it in
15 the commission of a crime, causes it to discharge, or displays it in a threatening
16 manner;

17 (3) imprisoned not more than five years or fined not more than
18 \$5,000.00, or both, if a child or prohibited person gains access to the firearm
19 and uses it to cause death or serious bodily injury to any person.

20 (c) Charging discretion. If a person who allegedly violates this section is a
21 parent or guardian of a child who gains access to a firearm that is used in an

1 unintentional or self-inflicted shooting that causes death or bodily injury to the
2 child, the impact of the child’s death or injury on the person who committed
3 the alleged violation shall be considered by the State’s Attorney when deciding
4 whether to file criminal charges in the case.

5 (d) Information distribution.

6 (1) At any location where a licensed dealer conducts firearm sales or
7 transfers, the licensed dealer shall conspicuously display a sign containing the
8 information required by subdivision (2) of this subsection in any area where
9 the sales or transfers occur. The sign shall be posted so that it can be easily
10 viewed by persons purchasing or receiving firearms, and the sign shall not be
11 removed, obscured, or rendered illegible. If the location where the sales or
12 transfers occur is the premises listed on the dealer’s federal firearms license, an
13 additional sign shall be placed at or near the entrance to the premises.

14 (2) The sign required by subdivision (1) of this subsection shall be at
15 least eight and one-half inches high by eleven inches wide and shall contain
16 black text at least half an inch high against a white background. The sign shall
17 contain the following text, and no other statements or markings:

18 “WARNING: Access to a firearm in the home significantly increases the
19 risk of suicide, death during domestic violence disputes, and the unintentional
20 death of children, household members, and others. If you or a loved one is

1 experiencing distress or depression, call the 988 Suicide and Crisis hotline or
2 text “VT” to 741741.

3 Vermont law requires gun owners to securely store their firearms
4 separately from ammunition in their homes and other premises under their
5 control if a child or person prohibited from purchasing or possessing firearms
6 is likely to gain access to them. Failure to securely store firearms as required
7 by law may result in criminal prosecution.

8 Posted pursuant to 13 V.S.A. § 4023.”

9 (3) The Department of Health, in consultation with the State Police,
10 shall develop detailed information regarding firearms safety and provide it free
11 of cost to licensed dealers. The information, in English and Spanish, shall
12 include the risks associated with firearms, suicide prevention resources, State
13 laws requiring secure firearms storage, and a summary of provisions related to
14 firearms in 13 V.S.A. chapter 85, including the duties of firearms sellers,
15 purchasers, and possessors. Licensed dealers shall distribute the printed
16 information required by this subsection to all firearms purchasers.

17 (4) The Department of Health and Agency of Education shall develop
18 detailed information regarding firearms safety and annually provide it free of
19 cost to students and parents. The information shall include the risks associated
20 with firearms, suicide prevention resources, state laws requiring secure
21 firearms storage, and the importance of secure storage in protecting minors

1 from accessing firearms. School districts shall annually distribute a pamphlet
2 in English and Spanish containing the information required by this subdivision
3 to all students and their families and shall post the information on the district’s
4 webpage.

5 (e) Definitions. As used in this section:

6 (1) “Child” means a person under 18 years of age.

7 (2) “Firearm” has the same meaning as in subsection 4017(d) of this
8 title.

9 (3) “Licensed dealer” means a person issued a license as a dealer in
10 firearms pursuant to 18 U.S.C. § 923(a).

11 (4) “Locked container” means a box, case, chest, locker, safe, or other
12 similar receptacle equipped with a tamper-resistant lock.

13 (5) “Prohibited person” means a person who is prohibited from
14 possessing a firearm by state or federal law or by court order.

15 Sec. 2. 13 V.S.A. § 4051 is amended to read:

16 § 4051. DEFINITIONS

17 As used in this subchapter:

18 * * *

19 (7) “Household member” has the same meaning as in 15 V.S.A. § 1101.

20 Sec. 3. 13 V.S.A. § 4052 is amended to read:

21 § 4052. JURISDICTION AND VENUE

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(c) Proceedings under this chapter shall be commenced in the county where the law enforcement agency is located, the county where the family or household member or the respondent resides, or the county where the events giving rise to the petition occur.

Sec. 4. 13 V.S.A. § 4053 is amended to read:

§ 4053. PETITION FOR EXTREME RISK PROTECTION ORDER

(a) A State’s Attorney ~~or~~, the Office of the Attorney General, or a family or household member may file a petition requesting that the court issue an extreme risk protection order prohibiting a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person’s custody or control. The petitioner shall submit an affidavit in support of the petition.

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Sec. 5. 13 V.S.A. § 4054 is amended to read:

§ 4054. EMERGENCY RELIEF; TEMPORARY EX PARTE ORDER

(a)(1) A State’s Attorney ~~or~~, the Office of the Attorney General, or a family or household member may file a motion requesting that the court issue an extreme risk protection order ex parte, without notice to the respondent. A law enforcement officer may notify the court that an ex parte extreme risk

1 protection order is being requested pursuant to this section, but the court shall
2 not issue the order until after the motion is submitted.

3 * * *

4 Sec. 6. 13 V.S.A. § 4055 is amended to read:

5 § 4055. TERMINATION AND RENEWAL MOTIONS

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7 (b)(1) A State's Attorney ~~or~~ the Office of the Attorney General, or a
8 family or household member may file a motion requesting that the court renew
9 an extreme risk protection order issued under this section or section 4053 of
10 this title for an additional period of up to six months. The motion shall be
11 accompanied by an affidavit and shall be filed not more than 30 days and not
12 less than 14 days before the expiration date of the order. The motion and
13 affidavit shall comply with the requirements of subsection 4053(c) of this title,
14 and the moving party shall have the burden of proof by clear and convincing
15 evidence.

16 * * *

17 Sec. 7. 13 V.S.A. § 4019a is added to read:

18 § 4019a. FIREARMS TRANSFERS; WAITING PERIOD

19 (a) A person shall not transfer a firearm to another person until 72 hours
20 after the completion of the background check required by 18 U.S.C. § 922(s)
21 or section 4019 of this title.

1 (b) A person who transfers a firearm to another person in violation of
2 subsection (a) of this section shall be imprisoned not more than one year or
3 fined not more than \$500.00, or both.

4 (c) This section shall not apply to a firearm transfer that does not require a
5 background check under 18 U.S.C. § 922(s) or section 4019 of this title.

6 (d) As used in this section, “firearm” has the same meaning as in
7 subsection 4017(d) of this title.

8 Sec. 8. EFFECTIVE DATE

9 This act shall take effect on passage.